

Message Text

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FM SECSTATE WASHDC

TO AMEMBASSY TOKYO

UNCLAS STATE 034919

E.O. 11652: N/A

TAGS: ETRD, JA

SUBJECT: NONTARIFF BARRIER: NTT PROCUREMENT

REF : 75 TOKYO 17462

1. COMMERCE HAS COMMUNICATED SUBSTANCE OF REFTTEL TO
TELESCIENCES AND HAS RECEIVED THEIR PERMISSION TO USE THEIR
NAME AND THE DETAILS OF THEIR CASE IN A FORMAL COMPLAINT
TO GOJ. COPIES OF THESE COMMUNICATIONS BEING SENT TO
EMBASSY VIA AIR POUCH.

2. WASHINGTON AGENCIES AGREE WITH EMBASSY THAT NTT
PROCUREMENT PRACTICES SHOULD BE SUBJECT OF FORMAL COMPLAINT
TO GOJ. SUGGESTED TEXT OF NOTE TO MINISTRY OF FOREIGN

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AFFAIRS (MFA) FOLLOWS. WE LEAVE IT TO EMBASSY'S DISCRETION,

HOWEVER, WHETHER THE COMPLAINT BE IN THE FORM OF DIPLOMATIC NOTE TO MFA OR DIRECT FORMAL COMMUNICATION WITH THE MINISTRY OF POST AND TELECOMMUNICATIONS.

3. BEGIN TEXT. THE EMBASSY OF THE UNITED STATES OF AMERICA PRESENTS ITS COMPLIMENTS TO THE MINISTRY OF FOREIGN AFFAIRS AND HAS THE HONOR TO REFER TO CERTAIN PROCUREMENT PRACTICES OF NIPPON TELEPHONE AND TELEGRAPH PUBLIC CORPORATION (NTT).

4. THE GOVERNMENT OF THE UNITED STATES WELCOMED THE ANNOUNCEMENT OF THE MINISTER OF FINANCE OF SEPTEMBER 11, 1972 CONCERNING THE "ABROGATION OF REGULATIONS CONCERNING ENCOURAGEMENT OF USE OF DOMESTIC PRODUCTS" RELATING TO PURCHASES BY OFFICIAL AGENCIES OF THE GOVERNMENT OF JAPAN. THE UNITED STATES BELIEVED SUCH ACTION WOULD ALLOW PARTICIPATION OF U.S. COMPANIES IN COMPETING FOR JAPANESE GOVERNMENT PROCUREMENT CONTRACTS AND AT THE SAME TIME WOULD PROVIDE JAPANESE GOVERNMENT ENTITIES THE OPPORTUNITY TO BUY FROM THE MOST ECONOMIC SOURCE, DOMESTIC OR FOREIGN.

5. THE ACTUAL IMPLEMENTATION OF THE CHANGES IN JAPANESE GOVERNMENT PROCUREMENT REGULATIONS HAS BEEN DISAPPOINTING. THE GOVERNMENT OF THE UNITED STATES HAS NOTED THE PAUCITY OF PROCUREMENT CONTRACTS AWARDED BY NTT TO NON-JAPANESE SUPPLIERS IN SPITE OF THE EXPRESSED INTEREST OF U.S. FIRMS IN SELLING THEIR PRODUCTS TO THESE PUBLIC ENTITIES. OF THE \$1.9 BILLION WORTH OF GOODS AND SERVICES PURCHASED

BY NTT IN CALENDAR 1974, A MERE 0.3 PERCENT WAS SUPPLIED BY NON-JAPANESE MANUFACTURERS. SUCH PERFORMANCE STANDS IN SHARP CONTRAST TO THE SUCCESS OF JAPANESE COMPANIES IN SELLING TO THE U.S. TELEPHONE AND TELEGRAPH EQUIPMENT MARKET. IN 1974 U.S. IMPORTS OF TELEPHONE AND TELEGRAPH EQUIPMENT FROM JAPAN TOTALLED OVER \$100 MILLION WHILE FOR THE SAME PERIOD US EXPORTS OF THIS EQUIPMENT TO JAPAN WERE ONLY SLIGHTLY OVER \$10 MILLION.

6. U.S. MANUFACTURERS HAVE ADVISED US ON NUMEROUS OCCASIONS OF THEIR EXCLUSION FROM CONSIDERATION FOR SUPPLY CONTRACTS BY NTT. THEY ARGUE THAT THEIR SINGULAR LACK OF SUCCESS IN THEIR SELLING EFFORTS HAS NOT BEEN FOR COMMERCIAL REASONS, BUT SOLELY BECAUSE THE EQUIPMENT OFFERED WAS OF FOREIGN MANUFACTURE. ONE SPECIFIC COMPLAINT BROUGHT TO OUR ATTENTION IS THE FOLLOWING: NTT EXPRESSED SERIOUS INTEREST IN THE PURCHASE OF TELEPHONE SUPPORT

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EQUIPMENT OFFERED BY TELESCIENCES, INC. OF MOORESTOWN, NEW JERSEY PROVIDED, HOWEVER, THAT TELESCIENCES WOULD ACCEPT THE LICENSING OF ITS EQUIPMENT FOR MANUFACTURE IN JAPAN OR WOULD MANUFACTURE THE EQUIPMENT IN THE UNITED STATES USING 100 JAPANESE ORIGIN COMPONENTS. TELESCIENCES CONSIDERS SUCH CONSTRAINTS TO BE COMPLETELY INEQUITABLE AND UNNECESSARY AND HAS DECLINED TO COMPLY WITH THEM THUS LOSING THE OPPORTUNITY TO SUPPLY NTT ON A REASONABLE COMMERCIAL BASIS WITH EQUIPMENT WHICH NTT HAD

PREVIOUSLY INDICATED A DESIRE TO PURCHASE.

7. THE EQUITY INTEREST WHICH THE GOVERNMENT OF JAPAN HAS IN NTT AND THE REGULATORY POSITION OF THE GOVERNMENT OVER THIS PUBLIC CORPORATION LEAD THE GOVERNMENT OF THE UNITED STATES TO CONCLUDE THAT THE PROCUREMENT POLICY OF NTT IS HEAVILY INFLUENCED BY THE GOVERNMENT OF JAPAN. ACCORDINGLY, THE EMBASSY REQUESTS THAT THE MINISTRY REVIEW THE RESTRICTIVE PROCUREMENT PRACTICES OF NTT, WHICH VIRTUALLY PRECLUDE FOREIGN COMPANY PARTICIPATION, TO DETERMINE WHETHER SUCH PRACTICES ARE CONSISTENT WITH JAPAN'S ADVOCACY OF A MORE OPEN INTERNATIONAL TRADING SYSTEM. THE EMBASSY ALSO REQUESTS THAT THE MINISTRY INVESTIGATE THE CIRCUMSTANCES SURROUNDING THE REJECTION OF THE OFFER OF TELESCIENCES INC. AS HEREIN DESCRIBED TO DETERMINE IF THE OFFER RECEIVED THE APPROPRIATE COMMERCIAL CONSIDERATION.

8. THE EMBASSY AVAILS ITSELF OF THIS OPPORTUNITY TO RENEW TO THE MINISTRY THE ASSURANCE OF ITS HIGHEST CONSIDERATION. ENDTEXT. EMBASSY'S MODIFICATIONS TO SUGGESTED TEXT FOR REASONS OF FORM AND/OR SUBSTANCE ARE WELCOME. PLEASE TRANSMIT COPY OF FINAL TEXT TO DEPARTMENT.

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9. WASHINGTON BELIEVES STRONGEST ARGUMENT AGAINST NTT PRACTICES IS IN CONTEXT OF GOVERNMENT PROCUREMENT. ACCORDING TO OUR INFORMATION, ALL STOCK OF NTT IS HELD BY GOJ.

10. THE PROBLEM OF NTT PROCUREMENT HAS BEEN RAISED IN CONTEXT OF OECD DISCUSSIONS ON PROPOSED GOVERNMENT PROCUREMENT CODE. JAPANESE DELEGATION UNWILLING TO CONSIDER NTT AS GOVERNMENTAL ENTITY SUBJECT TO PROVISIONS OF PROPOSED CODE. WASHINGTON THEREFORE BELIEVES MORE PRODUCTIVE AT PRESENT TO PURSUE MATTER BILATERALLY.

11. JAPANESE MAY RESPOND THAT UNTIL GOVERNMENT PROCUREMENT CODE PERFECTED AND IMPLEMENTED, THEY ARE UNDER NO

OBLIGATION TO ACCORD U.S. SUPPLIERS ACCESS TO JAPANESE GOVERNMENT PROCUREMENT. IN THIS EVENT, THEY SHOULD BE REMINDED THAT JAPANESE SUPPLIERS NOW ENJOY FREE ACCESS TO WIDE AREAS OF U.S. GOVERNMENT PROCUREMENT OF CIVILIAN GOODS (MOST NOTABLY ELECTRIC POWER GENERATING EQUIPMENT AND ALLIED PRODUCTS AND SUCH STEEL PRODUCTS AS TRANSMISSION TOWERS AND HIGHWAY MATERIALS) AND THAT CONTINUATION OF RESTRICTIVE PROCUREMENT POLICIES AS HEREIN DESCRIBED WILL RAISE QUESTION IN U.S. AS TO WHETHER SUCH ACCESS TO U.S. MARKET FOR JAPANESE SUPPLIERS IS APPROPRIATE. SISCO

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